SUPREME COURT, U. S.

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In the

Supreme Court of the United States

OCTOBER TERM, A. D. 1968.

No. 847

PEOPLE OF THE STATE OF ILLINOIS EX REL. WILLIAM I. LANDWER,

Petitioner,

vs.

VILLAGE OF NORTH BARRINGTON,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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The Scheffer Press, Inc.—ANdover 3-6850

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This is a municipal annexation case where property which previously had been unincorporated was annexed to a Village created and existing under Illinois law. Contrary to the record and the facts, Petitioner implies that this is a zoning case. The record shows that no change in zoning occurred as a result of the annexation (R. C271) and the petitioner has not sought any change in zoning.

The issue which petitioner seeks to raise has been decided by this Court adversely to the petitioner in many cases and the Appellate Court of Illinois followed those cases.

The simple and complete answer to the petition in this case is the holding of this Court in *Hunter* v. *Pittsburg*, 207 U.S. 161, 177-179 (1907):

> "Municipal corporations are political subdivisions of the State, created as convenient agencies for exercising such of the governmental powers of the State as may be intrusted to them . . . . *The number, nature and duration of the powers conferred upon these corporations and the territory over which they shall be exercised rest in the absolute discretion of the State* . . . . The State, therefore, at its pleasure may modify or withdraw all such powers, ... expand or contract the territorial area, unite the whole or a part of it with another municipality, repeal the charter and destroy the corporation. . . . Although the inhabitants and property owners may, by such changes, suffer inconvenience, and their property may be lessened in value by the burdens of increased taxation, or for any other reason, they have no right, by contract or otherwise, in the unaltered or continued existence of the corporation or its powers, and *there is nothing in the Federal Constitution which protects them from these injurious consequences*" (emphasis supplied).

Following the rationale of this case, the United States Court of Appeals for the Sixth Circuit in *Detroit Edison Co.* v. *East China Township School District No. 3*, 378 F. 2d 225 (1967), Cert. denied, 389 U.S. 932, held that annexation procedure was a legislative matter not justiciable under the due process or equal protection clauses of the 14th Amendment. To the same effect are *Hammonds* v. *The City of Corpus Christi, Texas*, 343 F. 2d 162 (5th Cir. 1965), Cert. denied, 382 U.S. 837, and *International Harvester Company* v. *Kansas City*, 308 F. 2d 35, (10th Cir. 1962), Cert. denied, 371 U.S. 948. See also *Deane Hill Country Club, Inc.* v. *City of Knoxville*, 379 F. 2d 321 (6th Cir. 1967), Cert. denied, 389 U.S. 975.

Hunter v. *Pittsburg* cites fourteen decisions of this Court to support the proposition quoted above.

As recently as 1967, this Court again cited *Hunter* v. *Pittsburg* and reached the same result. *Sailors* v. *Kent Board of Education,* 387 U.S. 105 (1967).

It is relevant that Illinois law allows a property owner to subsequently question by *quo warranto* the validity of an annexation although that property owner did not appear at the court hearings where the annexation was approved. Ch. 112, Ill. Rev. Stat. Secs. 9-15; *People Ex. Rel. Jordan Company* v. *Village of Forest View,* 21 Ill. 2d 384 (1961).

CONCLUSION

It is respectfully submitted that there is no Federal question in this case and that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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